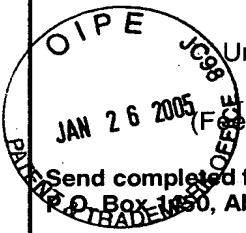


Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

 <p><b>PETITION FEE</b> Under 37 CFR 1.17(f), (g) &amp; (h) <b>TRANSMITTAL</b> (Fees are subject to annual revision) Send completed form to: Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450</p>	<b>Application Number</b>	<b>10/820,858</b>
	<b>Filing Date</b>	<b>April 9, 2004</b>
	<b>First Named Inventor</b>	<b>Hideomi IDEI et al.</b>
	<b>Art Unit</b>	<b>2184</b>
	<b>Examiner Name</b>	<b>Not yet assigned</b>
	<b>Attorney Docket Number</b>	<b>501.43751X00</b>

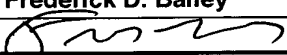
Enclosed is a petition filed under 37 CFR 1.102(d) that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 130.00 is enclosed.

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

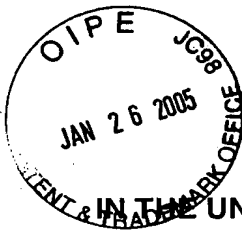
**Payment of Fees** (small entity amounts are NOT available for the petition (fees))

- ☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 50-1417:
- ☐ petition fee under 37 CFR 1.17(f), (g) or (h) ☒ any deficiency of fees and credit of any overpayments
- Enclose a duplicative copy of this form for fee processing.
- ☐ Check in the amount of \$ \_\_\_\_\_ is enclosed.
- ☒ Payment by credit card (From PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

<b>Petition Fees under 37 CFR 1.17(f):</b>	<b>Fee \$400</b>	<b>Fee Code 1462</b>
For petitions filed under:		
§ 1.53(e) - to accord a filing date.		
§ 1.57(a) - to according a filing date.		
§ 1.182 - for decision on a question not specifically provided for.		
§ 1.183 - to suspend the rules.		
§ 1.378(e) for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.		
§ 1.741(b) - to accord a filing date to an application under §1.740 for extension of a patent term.		
<b>Petition Fees under 37 CFR 1.17(g):</b>	<b>Fee \$200</b>	<b>Fee code 1463</b>
For petitions filed under:		
§1.12 - for access to an assignment record.		
§1.14 - for access to an application.		
§1.47 - for filing by other than all the inventors or a person not the inventor.		
§1.59 - for expungement of information.		
§1.103(a) - to suspend action in an application.		
§1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.		
§1.295 - for review of refusal to publish a statutory invention registration.		
§1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.		
§1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.		
§1.550(c) - for patent owner requests for extension of time in <u>ex parte</u> reexamination proceedings.		
§1.956 - for patent owner requests for extension of time in <u>inter partes</u> reexamination proceedings.		
§ 5.12 - for expedited handling of a foreign filing license.		
§ 5.15 - for changing the scope of a license.		
§ 5.25 - for retroactive license.		
<b>Petition Fees under 37 CFR 1.17(h):</b>	<b>Fee \$130</b>	<b>Fee Code 1464</b>
For petitions filed under:		
§1.19(g) - to request documents in a form other than that provided in this part.		
§1.84 - for accepting color drawings or photographs.		
§1.91 - for entry of a model or exhibit.		
§1.102(d) - to make an application special.		
§1.138(c) - to expressly abandon an application to avoid publication.		
§1.313 - to withdraw an application from issue.		
§1.314 - to defer issuance of a patent.		

<b>Name (Print/Type)</b>	<b>Frederick D. Bailey</b>	<b>Registration No. (Attorney/Agent)</b>	<b>42,282</b>
<b>Signature</b>		<b>Date</b>	<b>January 26, 2005</b>

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



501.43751X00

Applicants: Hideomi IDEI et al.

Serial No.: 10/820,858

Filed: April 9, 2004

For: COMPUTER SYSTEM FOR RECOVERING DATA BASED ON PRIORITY  
OF THE DATA

**PETITION TO MAKE SPECIAL  
UNDER 37 CFR 1.102(d) and MPEP. §708.02, VIII**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

January 26, 2005

Sir:

**1. Petition**

Applicants hereby petition to make this application **Special**, in accordance with 37 CFR §1.102(d) and MPEP 708.02, VIII. The present invention is a new application filed in the United States Patent and Trademark Office on April 9, 2004 and as such has not received any examination by the Examiner.

**2. Claims**

Applicants hereby represent that all the claims in the present application are directed to a single invention. If upon examination it is determined that all the claims presented are not directed to a single invention, Applicants will make an election without traverse as a prerequisite to the granting of special status.

01/28/2005 AADDF01 00000076 10820858

01 FC:1464

130.00 OP

### **3. Search**

Applicants hereby submit that a pre-examination search has been made by a professional searcher, (a copy of which is attached), in the following classes and subclasses:

<u>Class</u>	<u>Subclass</u>
707	202, 204
709	217
711	161, 162
714	4, 6

### **4. Copy of References**

A listing of all references found by the professional searcher is provided on a Form PTO-1449 and copies of the references and the Form PTO-1449 are submitted as part of an Information Disclosure Statement (IDS) filed on even date.

### **5. Detailed Discussion of the References and Distinctions Between the References and the Claims**

Below is a discussion of the references uncovered by the search and cited in the IDS filed on even date that appear to be most closely related to the subject matter encompassed by the claims of the present application, and which discussion particularly points out how Applicants' claimed subject matter is distinguishable over those references. All other references uncovered by the search and cited in the IDS filed on even date are **not** treated in detail herein.

**a. Detailed Discussion of the References**

**U.S. Patent No. 5,659,614 (Bailey)** discloses a method and system for creating and storing a backup copy of file data stored on a computer. The system prioritizes the files to be transmitted to the backup site. The files are prioritized according to ratings based on predetermined criteria. Higher rated files are transmitted to the backup site prior to lower rated files. Subsequently, data blocks within each file are examined to determine if they are identical to prior data blocks transmitted to the backup site during a previous backup operation. Identical data blocks are replaced by a token that is then transmitted to the backup site. The files that are to be transmitted to the backup site are encoded. All instances of predetermined client-specific data elements within each file are identified. Each identified data element is replaced by a corresponding code prior to encryption (see, Abstract, Figs. 1-13, col. 3, col. 5, lines 55-67 and col. 10, lines 30-67).

**U.S. Patent No. 5,966,730 (Zulch)** discloses a backup system for a computer network incorporating opportunistic backup by prioritizing least recently backed up computer or computer storage medium. The backup system is operated in accordance with a backup server containing an administrator-written script, backup protocol, or program. In operation, when backup is initiated, the total number of client computers having accessible data sources and the total number of storage media destinations are generated in a "trigger list." Utilizing the script, the trigger list is prioritized with the least-recently-backed-up client computer, as dated by the last backup time using this script, having first priority for backup. Once prioritization has occurred, backup is initiated in the order of prioritization to the first available of the client computers to

storage media paths. Once a client computer is backed up, it is ineligible for further backup until the script's backup interval elapses (see, Abstract, Figs. 1-6, col. 3, lines 55-67, and col. 4).

**U.S. Patent No. 6,553,401 (Carter)** discloses a system for implementing a high volume availability server cluster including both sharing volume of a mass storage on a local site and mirroring a shared volume on a remote site. The computer readable medium includes instructions which, when executed, cause a cluster manager to allocate the service and at least one shared volume of a first mass storage device associated with the service to a first server of a first subcluster located at a first site and comprising a plurality of servers that share the first mass storage device. The computer readable medium also includes instructions, which when executed, cause the cluster manager to mirror the at least one shared volume to a second mass storage device of a second subcluster located at a second site and comprising at least one server in order to obtain a first mirrored copy of the at least one shared volume at the second site (see, Abstract, Figs. 1-2, col. 2, lines 15-67 and col. 3, lines 1-35).

**U.S. Patent No. 6,601,187 (Sicola)** discloses a system for data replication using redundant pairs of storage controllers, fiber channel fabrics, and links therebetween. A system for remote backup of data written by a host computer to a first array of mass storage devices includes a first site with components including the host computer. Also included are a first array controller and a second array controller, operatively coupled to the first array of mass storage devices. A second site has components including a third array controller and a fourth array controller, operatively coupled to a second array of

mass storage devices. A first switched fabric is also included in the system and comprises a first switch interconnecting the components of said first site, and a first fiber channel link connecting the first switch and the second switch. Each array controller in the system is capable of performing all of the data replication functions, and each host “sees” remote data as if it were local (see, Abstract, Figs. 1-9, col. 4 and col. 5, lines 1-30).

**U.S. Patent Publication No. 2003/0069889 (Ofek)** discloses a data processing system that includes redundant storage of data, and that enables access to the data by multiple processes. A first data processing system with a first data facility stores a data base and processes transactions or other priority applications. A second data storage facility, that may be physically separated from the first data storage facility, mirrors the data in the first storage facility. In a concurrent access operating mode, the second data storage facility makes the data available to an application concurrently with, but independently of, the operation of the other application. On completion of the concurrent operation, the second data storage facility can reconnect with and synchronize with the first data storage facility thereby to reestablish the mirroring operation (see, Abstract, Figs. 1-22, paragraphs [0022] – [0025] and [0085]).

**U.S. Patent Publication No. 2003/0115433 (Kodama)** discloses a method of performing a remote copy transfer of data from a local storage facility to a geographically remote storage facility on a prioritized basis. Data is assigned a priority at the local storage facility based upon the importance of that data. Some data will have a high priority, other data a lower priority. Data is transferred according to the

assigned priorities. Changes to the data, prompted by write requests received by the local storage facility, will initiate a remote copy operation that results in a transmission of the changed data to the remote storage facility. A remote copy request, identifying the data to be transferred, and the corresponding pair of storage areas affected, is created and queued. Periodically, the queue is reviewed, and those remote copy requests associated with storage areas with an assigned higher priority are transmitted first, followed by data written to a storage areas assigned a lower priority (see, Abstract, Figs. 1-17, and paragraphs [0006] – [0010], [0038], [0041], [0060], [0063] and [0071] - [0074]).

**U.S. Patent Publication No. 2003/0177324 (Timpanaro)** discloses a method, system, and program for maintaining backup copies of files in a backup storage device. The files in the primary storage device are capable of being restored from the backup copy of the files in the backup storage device. An association of one of a plurality of priority values is maintained for each file in the backup storage device. The priority value associated with each file in the backup copy of the files is used to determine the order in which the files in the primary storage device are written to the backup copy in the backup storage device. In the system, the priority value for files to backup in a backup storage device may used to optimize the manner in which data is restored and reduce the time during which data is unavailable for use during a restore operation from the backup storage device (see, Abstract, Figs. 1-5, and paragraphs [0008] – [0013], [0023] – [0031] and [0034] -[0038]).

**U.S. Patent Publication No. 2004/0128363 (Yamagami)** discloses a system for remote copy with a path selection and prioritization. The system provides a method for handling a remote copy request in a distributed storage system. The system provides a plurality of primary volumes within a primary storage system that is coupled to a primary host via a first network. The primary storage system is coupled to a secondary storage system via a second network. A first request is selected from a plurality of requests placed in a queue based on priority information associated with the requests. A first path group is selected from one or more path groups that could be used to transmit the request. The first request is transmitted to the secondary storage system using the first path group, with the secondary storage system including a plurality of secondary volumes that are paired to the plurality of primary volumes (see, Abstract, Figs. 1-19, paragraphs [0014] – [0017] and [0106] – [0109]).

**b. Distinctions Between the References and the Claims**

The present invention as recited in the claims filed are not taught or suggested by any of the above noted references whether taken individually or in combination with each other or in combination with any of the other references now of record.

The present invention as recited in the claims is directed to a computer system that includes: a first site comprising a first computer and a first storage apparatus; a second site comprising a second computer and a second storage apparatus; a computer for management; and a network connecting the first site, the second site, and the computer for management to one another, wherein the first storage apparatus subjects data, which are stored in storage areas included in the



storage apparatus, to grouping on the basis of information inputted to the computer for management and, by a unit of a group obtained by the grouping, transfers data updated in the group to the second storage apparatus, and wherein, if the first site is stopped, the second site recovers the data by a unit of the group.

The above described features of the present invention, particularly where the first storage apparatus subjects data, which are stored in storage areas included in the storage apparatus, to grouping on the basis of information inputted to the computer for management and, by a unit of a group obtained by the grouping, transfers data updated in the group to the second storage apparatus, and where, if the first site is stopped, the second site recovers the data by a unit of the group, are not taught or suggested by any of the references of record whether taken individually or in combination with each other.

**6. Fee (37 C.F.R. 1.17(i))**

The fee required by 37 C.F.R. § 1.17(i) is to be paid by:

☒ the Credit Card Payment Form (attached) for \$130.00.

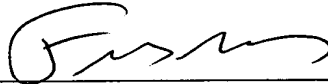
☐ charging Account \_\_\_\_\_ the sum of \$130.00.

A duplicate of this petition is attached.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Mattingly, Stanger & Malur, P.C., Deposit Account No. 50-1417 (501.43751X00).

Respectfully submitted,

MATTINGLY, STANGER & MALUR, P.C.



Frederick D. Bailey  
Registration No. 42,282

FDB/sdb  
Enclosures